

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-7614**

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In Re: CLARENCE HICKS,  
  
Petitioner,

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On Petition for Writ of Mandamus.  
(1:98-cr-00259-BEL-9; 1:02-cv-02076-BEL)

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Submitted: May 16, 2008

Decided: May 29, 2008

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Before NIEMEYER and MICHAEL, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Petition granted by unpublished per curiam opinion.

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Clarence Hicks, Petitioner Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clarence Hicks has petitioned this court for a writ of mandamus, complaining of delay in the district court. Finding substantial delay below, we grant the mandamus petition.

Following the district court's ruling in a 28 U.S.C. § 2255 (2000) motion filed by Clarence Hicks, Hicks filed a motion under Fed. R. Civ. P. 60(b). The district court entered an order in April 2006 addressing Hicks's motion, dismissing some of the claims therein and ordering the Government to respond to the remaining claims. The Government responded in July 2006. Hicks sought leave of the court to reply to that response, which was granted on August 2, 2006. No further action has been taken in the district court regarding the Rule 60(b).

As we conclude that Hicks has established a clear and indisputable right to expeditious treatment of his Rule 60(b) motion, and no other adequate remedy is available, we find that he has shown his entitlement to the writ of mandamus. See Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Therefore, the petition for writ of mandamus is granted. The district court is ordered to act on the Rule 60(b) motion pending in case No. 1:98-cr-00259-BEL-9; 1:02-cv-02076-BEL within sixty days of the date of this opinion. We grant Hicks leave to proceed in forma pauperis. We dispense with oral argument because the facts and legal contentions are

adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION GRANTED